

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2008-239

WILLIAM JAMES MCCrackEN  
2813 10th Avenue  
Arcadia, CA 91006

Registered Nurse License No. 634790

Respondent.

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 31, 2008.

It is so ORDERED July 31, 2008.

*LaTranene W Tate*

\_\_\_\_\_  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
Supervising Deputy Attorney General  
3 AMANDA DODDS  
Legal Analyst  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9  
10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-239

13 WILLIAM JAMES MCCrackEN  
2813 10th Avenue  
14 Arcadia, CA 91006

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 Registered Nurse No. 634790

16 Respondent.  
17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Amanda Dodds, Legal Analyst.

25 2. William James McCracken (Respondent) is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about March 22, 2004, the Board of Registered Nursing issued  
28 Registered Nurse License No. 634790 to Respondent. The Registered Nurse License was in full

1 force and effect at all times relevant to the charges brought in Accusation No. 2008-239 and will  
2 expire on March 31, 2010, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2008-239 was filed before the Board of Registered  
5 Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent.  
6 The Accusation and all other statutorily required documents were properly served on Respondent  
7 on February 15, 2008. Respondent filed his Notice of Defense contesting the Accusation. A  
8 copy of Accusation No. 2008-239 is attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations  
11 in Accusation No. 2008-239. Respondent also has carefully read, and understands the effects of  
12 this Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;  
16 the right to present evidence and to testify on his own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. 2008-239, agrees that cause exists for discipline and hereby surrenders his  
25 Registered Nurse License No. 634790 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the  
27 Board to issue an order accepting the surrender of his Registered Nurse License without further  
28 process.

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

2  
3  
4  
5  
6  
7  
8  
9  
10  
11

12  
13  
14

15  
16  
17

## 18

19  
20  
21

22  
23  
24  
25

26

27

28

1                   15.     Respondent shall cause to be delivered to the Board both his wall and  
2 pocket license certificates on or before the effective date of the Decision and Order.

3                   16.     Respondent fully understands and agrees that if he ever files an application  
4 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a  
5 petition for reinstatement. Respondent must comply with all the laws, regulations and  
6 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all  
7 of the charges and allegations contained in Accusation No. 2008-239 shall be deemed to be true,  
8 correct and admitted by Respondent when the Board determines whether to grant or deny the  
9 petition.

10                  17.     Upon reinstatement of the license, Respondent shall pay to the Board costs  
11 associated with its investigation and enforcement pursuant to Business and Professions Code  
12 section 125.3 in the amount of Two Thousand One Hundred Ninety-Five Dollars and Fifty Cents  
13 (\$2,195.50). Respondent shall be permitted to pay these costs in a payment plan approved by the  
14 Board.

15                  18.     Should Respondent ever apply or reapply for a new license or certification,  
16 or petition for reinstatement of a license, by any other health care licensing agency in the State of  
17 California, all of the charges and allegations contained in Accusation No. 2008-239 shall be  
18 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
19 Issues or any other proceeding seeking to deny or restrict licensure.

20                  19.     Respondent shall not apply for licensure or petition for reinstatement for  
21 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

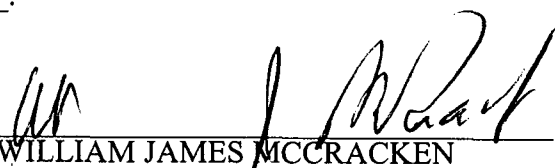
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 5/12/2008

  
WILLIAM JAMES MCCRACKEN  
Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 5/20/2008

EDMUND G. BROWN JR., Attorney General  
of the State of California

LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
AMANDA DODDS  
Legal Analyst

Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2008-239**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
Supervising Deputy Attorney General  
3 AMANDA DODDS  
Legal Analyst  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9  
10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-239

13 WILLIAM JAMES McCracken  
2813 10th Avenue  
14 Arcadia, CA 91006

**A C C U S A T I O N**

15 Registered Nurse No. 634790

16 Respondent.  
17

18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
22 Department of Consumer Affairs.

23 2. On or about March 22, 2004, the Board of Registered Nursing issued  
24 Registered Nurse license number 634790 to William James McCracken (Respondent). The  
25 Registered Nurse license was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on March 31, 2010, unless renewed.

27 ///

28 ///



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4

5  
6  
7  
8

9  
10  
11  
12  
13

14

15

17

18

19  
20

21

22

23

24

26  
27  
28

1 (c) Be convicted of a criminal offense involving the prescription,  
2 consumption, or self-administration of any of the substances described in  
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
4 record pertaining to, the substances described in subdivision (a) of this section, in  
5 which event the record of the conviction is conclusive evidence thereof.

6  
7  
8  
9  
10  
11  
12 8. Section 490 of the Code states:

13 A board may suspend or revoke a license on the ground that the licensee  
14 has been convicted of a crime, if the crime is substantially related to the  
15 qualifications, functions, or duties of the business or profession for which the  
16 license was issued. A conviction within the meaning of this section means a plea  
17 or verdict of guilty or a conviction following a plea of nolo contendere. Any  
18 action which a board is permitted to take following the establishment of a  
19 conviction may be taken when the time for appeal has elapsed, or the judgment of  
20 conviction has been affirmed on appeal, or when an order granting probation is  
21 made suspending the imposition of sentence, irrespective of a subsequent order  
22 under the provisions of Section 1203.4 of the Penal Code.

23  
24  
25  
26  
27  
28 9. Section 492 of the Code states:

10 Notwithstanding any other provision of law, successful completion of any  
11 diversion program under the Penal Code, or successful completion of an alcohol  
12 and drug problem assessment program under Article 5 (commencing with section  
13 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
14 any agency established under Division 2 ([Healing Arts] commencing with  
15 Section 500) of this code, or any initiative act referred to in that division, from  
16 taking disciplinary action against a licensee or from denying a license for  
17 professional misconduct, notwithstanding that evidence of that misconduct may  
18 be recorded in a record pertaining to an arrest.

19  
20  
21  
22 10. Section 125.3 of the Code provides, in pertinent part, that the Board may  
23 request the administrative law judge to direct a licensee found to have committed a violation or  
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
25 and enforcement of the case.

26  
27  
28 11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the  
qualifications, functions or duties of a registered nurse if to a substantial degree it  
evidences the present or potential unfitness of a registered nurse to practice in a  
manner consistent with the public health, safety, or welfare. Such convictions or  
acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations  
listed in subdivision (d) of Penal Code Section 11160.

- 1 (b) Failure to comply with any mandatory reporting requirements.  
2 (c) Theft, dishonesty, fraud, or deceit.  
3 (d) Any conviction or act subject to an order of registration pursuant to  
4 Section 290 of the Penal Code.

5 12. California Code of Regulations, Title 16, section 1445 states:

6 . . . .

7 (b) When considering the suspension or revocation of a license on the  
8 ground that a licensed vocational nurse has been convicted of a crime, the Board,  
9 in evaluating the rehabilitation of such person and his eligibility for a license will  
10 consider the following criteria:

- 11 (1) Nature and severity of the act(s) or offense(s).  
12 (2) Total criminal record.  
13 (3) The time that has elapsed since commission of the act(s) or  
14 offense(s).  
15 (4) Whether the licensee has complied with any terms  
16 of parole, probation, restitution, or any other  
17 sanctions lawfully imposed against the licensee.  
18 (5) If applicable, evidence of expungement proceedings  
19 pursuant to Section 1203.4 of the Penal Code.  
20 (6) Evidence, if any, of rehabilitation submitted by the  
21 licensee.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(June 9, 2006 Criminal Conviction for DUI With Refusal Allegation on January 14, 2006)**

24 13. Respondent has subjected his license to disciplinary action under sections  
25 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is  
26 substantially related to the qualifications, functions, and duties of a Registered Nurse. The  
27 circumstances are as follows:

28 a. On or about June 6, 2006, in a criminal proceeding entitled *People*  
*v. William James McCracken*, in San Diego County Superior Court, Case No. M983148,  
Respondent was convicted on his plea of no contest for violating Vehicle Code section 23152,  
subdivision (a), driving under the influence of alcohol and willfully refusing a peace officer's

1 request to complete a chemical test to determine his blood alcohol content (BAC) pursuant to  
2 Vehicle Code section 23612.

3 b. As a result of the conviction, on or about June 6, 2006, Respondent  
4 was sentenced to 180 days in the custody of the sheriff. The execution of sentence was  
5 suspended for five years upon successful completion of probation, to include payment of \$1,750  
6 in fees and fines, completion of nine days in Public Service Work Program, and attend and  
7 complete a First Conviction Program. Respondent was further ordered not to drive with a  
8 measurable amount of alcohol in his system or without a valid license. Respondent's driver's  
9 license was suspended by the DMV.

10 c. The circumstances that led to the conviction were that on or about  
11 the early morning hours of January 16, 2006, a San Diego Police Department Officer observed  
12 Respondent's vehicle weaving and swerving on northbound Interstate 5 as Respondent made the  
13 transition onto eastbound Interstate 8 (I-8). The officer continued to follow Respondent on I-8  
14 and observed him crossing over the lane markers numerous times at a speed between 40 and 60  
15 miles per hour. The officer activated his emergency lights and Respondent exited I-8 onto a  
16 surface street and stopped on the shoulder of the road. The officer observed an odor of alcohol  
17 emanating from Respondent's vehicle. Following various Field Sobriety Tests, all of which  
18 Respondent failed, the officer placed Respondent under arrest. The officer asked Respondent if  
19 he had ever been arrested before, and Respondent said he had not. A records check of  
20 Respondent's driver's license revealed his Illinois' driver's license had been suspended because  
21 he refused an alcohol test. The officer transported Respondent to police headquarters.  
22 Respondent was offered the choice of submitting either a breath or blood sample, and  
23 Respondent refused both. A laboratory technician obtained a blood sample from Respondent.

24 ///

25 ///

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3  
4  
5  
6

7  
8  
9  
10

11  
12  
13

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(August 13, 2007 Criminal Conviction for Driving**

3 **With a BAC of 0.08% or Higher on April 8, 2007)**

4 15. Respondent has subjected his license to disciplinary action under sections  
5 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is  
6 substantially related to the qualifications, functions, and duties of a Registered Nurse. The  
7 circumstances are as follows:

8 a. On or about August 13, 2007, in a criminal proceeding entitled  
9 *People v. William James McCracken*, in San Diego County Superior Court, Case No. S210833,  
10 Respondent was convicted on his plea of guilty for violating Vehicle Code section 23152,  
11 subdivision (b), driving with a 0.08% or higher blood alcohol content, a misdemeanor.

12 b. As a result of the conviction, on or about August 13, 2007,  
13 Respondent was sentenced to 96 hours in the county jail (to be served on consecutive weekends),  
14 five years summary probation, attend and complete a Multiple Conviction Program (SB38) and  
15 the MADD program, and payment of fines in the amount of \$2,162. Respondent was further  
16 ordered not to drive with a measurable amount of alcohol in his system or without a valid  
17 license.

18 c. The circumstances that led to the conviction were that on or about  
19 the early morning hours of April 8, 2007, Respondent was stopped at a Field Sobriety  
20 Checkpoint established by the California Highway Patrol in San Ysidro. Respondent was the  
21 sole occupant of a Nissan Pathfinder. While interviewing Respondent, the officer observed that  
22 Respondent's eyes were red and watery, and exhibited a lack of smooth pursuit in both eyes.  
23 The officer also noted a strong odor of alcohol emanating from the vehicle. When asked for his  
24 driver's license, Respondent stated that he did not have it with him. The officer had Respondent  
25 exit his vehicle. The officer administered a series of Field Sobriety Tests, all of which  
26 Respondent failed to perform as explained and demonstrated by the officer (Horizontal Gaze  
27 Nystagmus, one leg stand, walk and turn, and Romberg balance). Respondent submitted to a  
28 Preliminary Alcohol Screening Device (PAS) test; two samples had a blood alcohol reading of

1 .183% and .187%. A records check revealed Respondent's driver's license was suspended for a  
2 previous DUI offense. Respondent was escorted to the CHP command post where he agreed to a  
3 blood test. Respondent was subsequently arrested and transported to the San Diego county jail  
4 where he was booked.

5  
6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(January 18, 2008 Criminal Conviction for for Driving**

8 **With a BAC of 0.08% or Higher on September 24, 2007)**

9 16. Respondent has subjected his license to disciplinary action under sections  
10 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is  
11 substantially related to the qualifications, functions, and duties of a Registered Nurse. The  
12 circumstances are as follows:

13 a. On or about January 17, 2008, in a criminal proceeding entitled  
14 *People v. William James McCracken*, in Los Angeles County Superior Court, Case No.  
15 7JB09047, Respondent was convicted on his plea of no contest for violating Vehicle Code  
16 section 23152, subdivision (b), driving with a 0.08% or higher blood alcohol content, a  
17 misdemeanor. Respondent stipulated to a factual basis for the plea based on the police report,  
18 and further admitted the priors as detailed in paragraphs 13 and 15, above.

19 b. As a result of the conviction, on or about January 17, 2008,  
20 Respondent was sentenced to 120 days in the county jail, with credit for 1 day served, three  
21 years summary probation, and payment of fees, fines, and restitution in the amount of \$2,129.  
22 Respondent was ordered to return to court on March 4, 2008, where he will surrender to custody.

23 c. The circumstances that led to the conviction were that on or about  
24 the early morning hours of September 24, 2007, two California Highway Patrol officers on  
25 routine patrol observed Respondent, who was driving a Nissan Pathfinder, make an abrupt lane  
26 change while traveling on the westbound Interstate 10 freeway. The officers observed  
27 Respondent make several other partial lane changes and unsafe maneuvers and activated their  
28 overhead lights to conduct an enforcement stop. Respondent complied and moved his vehicle

1 off the freeway to the shoulder of a surface street. The officers asked for Respondent's driver's  
2 license, registration, and proof of insurance. Respondent told the officers that his license had  
3 expired. A records check revealed it was suspended. The officers detected a strong odor of  
4 alcohol emanating from the vehicle; Respondent's eyes were red and watery. Respondent told  
5 the officer he had about two alcoholic beverages earlier in the evening. After exiting his vehicle,  
6 the officer noted a strong odor of alcohol on Respondent's breath and his speech was slurred.  
7 Respondent failed the Field Sobriety Tests he was asked to perform (horizontal gaze nystagmus,  
8 Romberg balance, hand pat, and finger count). Respondent submitted to a Preliminary Alcohol  
9 Screening Device (PAS) test, which detected the presence of alcohol with a reading of .138% at  
10 0227 hours, and a second sample tested at .119% at 0229 hours. Based on the officers' objective  
11 observations of intoxication, Respondent's failure to properly complete the field sobriety tests,  
12 and the results of the PAS test, Respondent was transported to the Los Angeles County Sheriff's  
13 Office (Walnut), where he was administered another breath test. Respondent measured a blood  
14 alcohol content of .12% at 0306 hours. He was booked and charged into the Sheriff's Office.  
15

#### 16 **FIFTH CAUSE FOR DISCIPLINE**

##### 17 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

18 17. Respondent has subjected his license to disciplinary action under section  
19 2762, subdivision (b) of the Code in that Respondent used alcohol in a manner dangerous and  
20 injurious to himself and the public as evidenced by Respondent's four alcohol-related  
21 convictions as alleged in paragraphs 13-16, above. Respondent's ongoing disregard for himself  
22 and the public safety constitutes unprofessional conduct, and further demonstrates a substance  
23 abuse problem.  
24

#### 25 **SIXTH CAUSE FOR DISCIPLINE**

##### 26 **(Unprofessional Conduct - Conviction of Alcohol-Related Offenses)**

27 18. Respondent has subjected his license to disciplinary action under section  
28 2762, subdivision (c) of the Code in that Respondent was convicted of four alcohol-related



1 offenses in an 18-month period as alleged in paragraphs 13-16, above. Respondent's convictions  
2 and his inability to abide by the terms and conditions of his probation constitute unprofessional  
3 conduct.

4  
5 **DISCIPLINE CONSIDERATIONS**

6 19. To determine the degree of discipline, if any, to be imposed on  
7 Respondent, Complainant alleges that on or about April 22, 2003, in a prior criminal proceeding  
8 entitled *Chicago v. William J. McCracken*, in the Circuit Court of Cook County, Illinois, Case  
9 Number TA-780-481, Respondent was given probation for violation of Illinois Vehicle Code  
10 section 11-501, subdivision (a)(1), driving under the influence of alcohol (.113%). The offense  
11 occurred on or about November 20, 2002. The court ordered Respondent to attend a DUI  
12 counseling program for "significant risk offenders," which he completed on or about September  
13 13, 2003. Respondent's driver's license was suspended.

14 20. To determine the degree of discipline, if any, to be imposed on  
15 Respondent, Complainant alleges that in a letter dated July 25, 2006, Millie Lowery, Diversion  
16 Program Analyst for the Board of Registered Nursing, offered Respondent an opportunity to  
17 participate in the Board's Diversion Program in lieu of proceeding with an investigation of his  
18 alcohol-related offenses. The Diversion Program would require that Respondent follow an  
19 individual rehabilitation contract, and his participation and compliance would be monitored.  
20 Respondent was informed that if he refused to participate in diversion, the investigation could  
21 result in discipline against his license. In his written response to Ms. Lowery dated August 1,  
22 2006, Respondent stated that he would be completing court-ordered alcohol programs.  
23 Respondent did not elect to participate in the Diversion Program.

24 ///

25 ///

26 ///

27 ///

28 ///

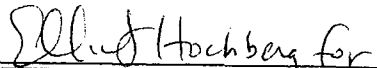
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse Number 634790, issued to William James McCracken;
- 2. Ordering William James McCracken to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 2/4/08

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SD2007802987  
80195354.wpd